

FIFTY-THIRD DAY - MARCH 31, 2005**LEGISLATIVE JOURNAL****NINETY-NINTH LEGISLATURE
FIRST SESSION****FIFTY-THIRD DAY**

Legislative Chamber, Lincoln, Nebraska
Thursday, March 31, 2005

PRAYER

The prayer was offered by Pastor John Nelson Jr., Christ Lutheran Church, Columbus.

ROLL CALL

Pursuant to adjournment, the Legislature met at 9:00 a.m., Senator Cudaback presiding.

The roll was called and all members were present except Senators Bourne, Brown, Cornett, Landis, McDonald, Dw. Pedersen, D. Pederson, and Schrock who were excused until they arrive.

CORRECTIONS FOR THE JOURNAL

The Journal for the fifty-second day was approved.

COMMUNICATION

Received petition from the Douglas County Board of Commissioners adopted on March 29, 2005.

GENERAL FILE

LEGISLATIVE BILL 276. Title read. Considered.

The Standing Committee amendment, AM0417, found on page 561, was adopted with 30 ayes, 0 nays, 11 present and not voting, and 8 excused and not voting.

Advanced to E & R for review with 31 ayes, 0 nays, 10 present and not voting, and 8 excused and not voting.

LEGISLATIVE BILL 4. Title read. Considered.

SPEAKER BRASHEAR PRESIDING

Pending.

RESOLUTIONS

Pursuant to Rule 4, Sec. 5(b), LRs 59, 60, 61, 62, 63, and 64 were adopted.

SPEAKER SIGNED

While the Legislature was in session and capable of transacting business, the Speaker signed the following: LRs 59, 60, 61, 62, 63, and 64.

GENERAL FILE

LEGISLATIVE BILL 4. Considered.

Senator Chambers offered the following amendment:

FA135

Add a new section

"Incidentally, notwithstanding any other provision of law, the death penalty is hereby abolished."

SENATOR JANSSEN PRESIDING

PRESIDENT SHEEHY PRESIDING

SENATOR CUDABACK PRESIDING

Senator Chambers withdrew his amendment.

Senator Beutler offered the following amendment:

FA136

On page 27, line 16 strike "Governor" and insert "legislature, by resolution"

The Beutler amendment was adopted with 30 ayes, 0 nays, 18 present and not voting, and 1 excused and not voting.

Pending.

RESOLUTION

LEGISLATIVE RESOLUTION 70. Introduced by Kruse, 13.

WHEREAS, Chief Standing Bear was a distinguished leader of the Ponca tribe in Nebraska; and

WHEREAS, Standing Bear was determined to travel from Indian Territory back to Nebraska to bury his son on his farm. He was arrested on the Omaha Reservation and transported to Fort Omaha where he and thirty

other Indians traveling with the chief were detained; and

WHEREAS, Standing Bear subsequently petitioned the United States by writ of habeas corpus for his release and the release of his companions as they were persons under the law and were being detained illegally; and

WHEREAS, the churches of Omaha paid the Ponca members' expenses related to the federal trial and supported Standing Bear's view that the Indians were persons under the law and were being detained illegally, demanding "that the protection of the United States be extended to these original Americans"; and

WHEREAS, U. S. District Judge Elmer Dundy declared in his opinion that Native Americans were indeed persons and that Chief Standing Bear had a right to immigrate from Indian Territory to the United States, changing forever related basic legal assumptions in our nation.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE NINETY-NINTH LEGISLATURE OF NEBRASKA, FIRST SESSION:

1. That the Nebraska Legislature recognizes the determination and achievement of Chief Standing Bear.

2. That the Nebraska Legislature joins with Governor Heineman in declaring May 12, 2005, to be Chief Standing Bear Day in Nebraska.

Laid over.

AMENDMENT - Print in Journal

Senator Redfield filed the following amendment to LB 500:
AM1014

- 1 1. Strike original section 13 and all amendments
- 2 thereto.
- 3 2. On page 3, line 15, strike the last "and" and insert
- 4 ", but not for which"; and in line 16 after "domain" insert "may
- 5 be".
- 6 3. On page 4, line 15, strike "payment of relocation
- 7 assistance; (d)" and renumber the remaining subdivisions.
- 8 4. On page 12, strike line 28.
- 9 5. On page 13, strike line 1 through "(i)" in line 2 and
- 10 insert "and
- 11 (h)".
- 12 6. On page 25, line 15, strike "eminent domain." and
- 13 after "otherwise" insert ", but not by eminent domain."; and strike
- 14 beginning with the comma in line 18 through "individuals" in line
- 15 19.
- 16 7. In the Standing Committee amendments, AM0773, strike
- 17 section 30 and amendment 19.
- 18 8. Renumber the remaining sections and correct internal
- 19 references accordingly.

SELECT COMMITTEE REPORTS
Enrollment and Review

LEGISLATIVE BILL 739. Placed on Select File as amended.

(E & R amendment, AM7071, is printed separately and available in the Bill Room, Room 1104.)

LEGISLATIVE RESOLUTION 12CA. Placed on Select File.

(Signed) Michael Flood, Chairperson

VISITORS

Visitors to the Chamber were 30 fourth-grade students and teacher from Sandy Creek Elementary School, Fairfield; 74 fifth-grade students and teachers from Bellfield Elementary School, Fremont; National FFA members from across the state; 33 fourth-grade students and teacher from Shoemaker Elementary School, Grand Island; 21 exchange students from Kreisgymnasium, Heinsberg, Germany; and Ryan Shaffer from Norfolk.

RECESS

At 11:53 a.m., on a motion by Senator Byars, the Legislature recessed until 1:30 p.m.

AFTER RECESS

The Legislature reconvened at 1:30 p.m., Senator Cudaback presiding.

ROLL CALL

The roll was called and all members were present except Senators Brashear, Brown, Combs, Engel, Erdman, Kruse, Loudon, Dw. Pedersen, D. Pederson, and Price who were excused until they arrive.

AMENDMENT - Print in Journal

Senator Beutler filed the following amendment to LB 4:
AM1026

- 1 1. On page 27, line 20, strike "Governor" and insert
- 2 "Legislature"; and in line 27 after the period insert "Should a
- 3 vacancy exist in the position of compact administrator while the
- 4 Legislature is not in session, the Governor may appoint an interim
- 5 compact administrator who shall have all the powers of a compact
- 6 administrator until the Legislature appoints a new compact
- 7 administrator."

GENERAL FILE**LEGISLATIVE BILL 682.** Title read. Considered.

The Standing Committee amendment, AM0574, found on page 659, was adopted with 32 ayes, 0 nays, 13 present and not voting, and 4 excused and not voting.

Advanced to E & R for review with 32 ayes, 0 nays, 13 present and not voting, and 4 excused and not voting.

LEGISLATIVE BILL 389. Title read. Considered.

The Standing Committee amendment, AM0572, found on page 625, was adopted with 32 ayes, 0 nays, 13 present and not voting, and 4 excused and not voting.

Advanced to E & R for review with 34 ayes, 0 nays, 11 present and not voting, and 4 excused and not voting.

LEGISLATIVE BILL 389A. Title read. Considered.

Advanced to E & R for review with 29 ayes, 0 nays, 16 present and not voting, and 4 excused and not voting.

LEGISLATIVE BILL 193. Title read. Considered.

The Standing Committee amendment, AM0375, found on page 589, was adopted with 33 ayes, 0 nays, 12 present and not voting, and 4 excused and not voting.

Advanced to E & R for review with 37 ayes, 0 nays, 9 present and not voting, and 3 excused and not voting.

AMENDMENTS - Print in Journal

Senator Wehrbein filed the following amendment to LB 227:
AM0931

(Amendments to Standing Committee amendments, AM0062)

- 1 1. On page 1, line 8, after the second "4" insert "; in
- 2 line 19 strike 'in' through 'years' and show as stricken; strike
- 3 beginning with 'equal' in line 24 through the first 'of' in line
- 4 26, show as stricken, and insert 'sufficient to fund'; and strike
- 5 beginning with the second 'the' in line 26 through 'years' in line
- 6 28, show as stricken, and insert 'any cemetery created pursuant to
- 7 this subsection'".

Senator Synowiecki filed the following amendment to LB 489:

(Amendment, AM1006, is printed separately and available in the Bill Room,

Room 1104.)

GENERAL FILE

LEGISLATIVE BILL 273. The Beutler pending amendment, FA118, found on page 989 and considered on page 1046, was renewed.

Senator Beutler asked unanimous consent to withdraw his pending amendment, FA118, found on page 989, and replace it with his substitute amendment, AM1022. No objections. So ordered.

AM1022

- 1 1. On page 2, line 13, after "community" insert
- 2 "business"; in lines 23 and 27 strike "political subdivisions" and
- 3 insert "municipalities or counties"; in line 26 strike "the
- 4 situations described in this section" and insert "chronic economic
- 5 distress"; in line 27 after "have" insert "chronic economic
- 6 distress as indicated by"; and strike line 28.
- 7 2. On page 3, line 1, strike "(i)" and insert "(a)"; in
- 8 line 2 strike "or"; in line 3 strike "(ii)" and insert "(b)"; in
- 9 line 5 strike "(b)" and insert "(c)"; in line 9 strike "five" and
- 10 insert "two"; in line 10 strike "political subdivision" and insert
- 11 "municipality or county"; and in line 14 strike "political
- 12 subdivisions" and insert "municipalities or counties".

SENATOR ENGEL PRESIDING

SENATOR CUDABACK PRESIDING

Pending.

AMENDMENTS - Print in Journal

Senator Beutler filed the following amendment to LB 709:

AM1027

(Amendments to Standing Committee amendments, AM0772)

- 1 1. Insert the following new section:
- 2 "Sec. 3. The Legislature finds that:
- 3 (1) The medicaid program under Title XIX of the Social
- 4 Security Act, 42 U.S.C. 1396 et seq., provides essential health
- 5 care and long-term care coverage to low-income children, pregnant
- 6 women, and families, individuals with disabilities, and senior
- 7 citizens serving over one in ten Nebraskans;
- 8 (2) The medicaid program covers one in four children in
- 9 rural areas;
- 10 (3) The medicaid program is the largest single purchaser
- 11 of maternity care and pays for over one-third of the births in the
- 12 United States each year;
- 13 (4) Medicaid is America's single largest purchaser of
- 14 nursing home services and other long-term care, covering the

- 15 majority of nursing home residents;
 16 (5) In Nebraska, the elderly and individuals with
 17 disabilities comprise twenty-three and three-tenths percent of the
 18 medicaid population and represent sixty-seven and two-tenths
 19 percent of medicaid expenditures;
 20 (6) In Nebraska, low-income children and their parents
 21 comprise seventy-six and seven-tenths percent of the medicaid
 22 population and represent thirty-two and eight-tenths percent of
 23 medicaid expenditures;
 1 (7) Medicaid pays for personal care and other supportive
 2 services necessary to enable individuals with disabilities to
 3 remain in the community, to work, and to maintain independence; and
 4 (8) Medicaid is the single largest source of revenue for
 5 the nation's safety net hospitals and health centers and is
 6 critical to the ability of these providers to continue to serve
 7 medicaid enrollees and uninsured Americans."
 8 2. On page 1, line 3, strike "6" and insert "7".
 9 3. On page 3, line 2, strike "5" and insert "6"; and in
 10 line 3 strike "7 to 11" and insert "8 to 12".
 11 4. On page 4, line 22, strike "10" and insert "11".
 12 5. Renumber the remaining sections accordingly.

Senator Beutler filed the following amendment to LB 709:
 AM1028

(Amendments to Standing Committee amendments, AM0772)

- 1 1. On page 1, line 14, strike "has" and insert "may";
 2 and in line 22 strike "control" and insert "mitigate".
 3 2. On page 2, line 16, after "district" insert "on the
 4 plan as it is intended to be proposed"; in lines 20 and 27 strike
 5 "shall" and insert "may"; and in line 24 after "plan" insert "if
 6 the plan has been altered since first presented to the public".

WITHDRAW - Cointroducer

Senator Synowiecki withdrew his name as cointroducer to LB 709.

UNANIMOUS CONSENT - Add Cointroducer

Senator Friend asked unanimous consent to have his name added as cointroducer to LB 542. No objections. So ordered.

VISITORS

Visitors to the Chamber were Aaron, Jenny, Averi, and Treyson Bott and Scarlet and Savannah Ellis from Houston, Texas.

ADJOURNMENT

At 3:30 p.m., on a motion by Senator Bourne, the Legislature adjourned until 9:00 a.m., Friday, April 1, 2005.

Patrick J. O'Donnell
Clerk of the Legislature